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FOR IMMEDIATE RELEASE

Proposed Scholarship Funding Unconstitutional, Attorney General's Office Says

(Phoenix, Ariz. - July 16, 2008) The Attorney General's Office today concluded that the Arizona House of Representatives does not have legal authority to provide funding to the Arizona Department of Education for two scholarship programs without a specific appropriation.

The scholarships would allow families with disabled children and families with foster children to send them to schools of their choice.

"I know this is an emotional and personal issue for the families who have received these scholarships in the past, and I appreciate their frustration," Goddard said. "But the law is clear. The Speaker of the House of Representatives has no power to spend funds for these scholarships, or for any other purpose, without going through the appropriations process."

The Attorney General's Office responded to a request for an informal opinion from Weiers and Horne asking if they had authority to commit surplus House funds to the scholarship programs.

According to the letter sent to Speaker Jim Weiers and Superintendent Tom Horne, the authority to appropriate funds to agencies rests with the Arizona State Legislature and the Governor through the appropriations process.

Without approval from the full House of Representatives, the State Senate and the Governor, there is no constitutional authority for the Speaker of the House to fund the two scholarship programs with the House surplus funds.

"The Legislature had the opportunity to include these funds in the 2009 Budget and did not do so," Goddard said. "The Speaker does not have authority to sidestep the full legislative appropriation process."

The letter concluded that applying well-established legal principles, "the House may not spend public monies for the two scholarship programs because there has been no appropriation to the House for that purpose."

A copy of the letter is attached.

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